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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No: 120509050-2325-02]

RIN: 0660-XC001

Development of Programmatic Requirements for the State and Local Implementation

Grant Program to Assist in Planning for the Nationwide Public Safety Broadband Network

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice to announce requirements for the State and Local Implementation Grant Program authorized by section 6302 of the Middle Class Tax Relief and Job Creation Act of 2012 (Act). The Notice describes the programmatic requirements under which NTIA will award grants to assist state, local, and tribal governments with planning for a nationwide interoperable public safety broadband network.

DATES: The programmatic requirements for the State and Local Implementation Grant Program become effective [insert date of publication in the *Federal Register*].

ADDRESSES: The programmatic requirements for the State and Local Implementation Grant Program will be posted to the NTIA website at <http://www.ntia.doc.gov>.

FOR FURTHER INFORMATION CONTACT: Laura M. Pettus, Program Specialist, Office of Telecommunications and Information Applications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue,

NW, Room 4812, Washington, DC 20230; telephone: (202) 482-5802. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482-7002.

SUPPLEMENTARY INFORMATION:

I. Background

On February 22, 2012, President Obama signed into law the Middle Class Tax Relief and Job Creation Act of 2012 (Act).¹ The Act meets a long-standing priority of the Obama Administration to create a single, nationwide interoperable public safety broadband network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to communicate with each other across agencies and jurisdictions. Public safety workers have long been hindered by incompatible, and often outdated, communications equipment and this Act will help them to do their jobs more safely and effectively.

The Act establishes the First Responder Network Authority (FirstNet) as an independent authority within NTIA and authorizes it to take all actions necessary to ensure the design, construction, and operation of a nationwide public safety broadband network (PSBN), based on a single, national network architecture.² FirstNet is responsible for, at a minimum, ensuring nationwide standards for use of and access to the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the

¹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) (Act).

² 47 U.S.C. 1422 (b), 1426(b)(1).

network.³

Additionally, the Act charges NTIA with establishing a grant program to assist state, regional, tribal, and local jurisdictions with identifying, planning, and implementing the most efficient and effective means to use and integrate the infrastructure, equipment, and other architecture associated with the nationwide PSBN to satisfy the wireless broadband and data services needs of their jurisdictions.⁴ Up to \$135 million in grant money will be available to NTIA for the State and Local Implementation Grant Program.⁵

To implement the new program, NTIA must establish requirements, in consultation with FirstNet, by August 22, 2012. These requirements include: determining the scope of eligible activities that the grant program will fund, defining eligible costs, and prioritizing grants for activities that ensure coverage in rural as well as urban areas.⁶ The U.S. Secretary of Commerce appointed the FirstNet Board of Directors on August 20, 2012, and NTIA initiated consultations with FirstNet on the requirements for the State and Local Implementation Grant Program. NTIA may refine further the programmatic requirements announced in this Notice based on these ongoing consultations.

II. Overview of Public Comments

On May 16, 2012, NTIA issued a Request for Information (RFI) seeking public comment on various issues related to the development of the State and Local Implementation

³ *Id.*

⁴ 47 U.S.C. 1442(a).

⁵ 47 U.S.C. 1441(c).

⁶ 47 U.S.C. 1442(c).

Grant Program.⁷ Specifically, the RFI requested comment on how FirstNet should conduct the consultation process with regional, state, tribal, and local jurisdictions; how to incorporate existing public safety governance and planning authorities into the development of the PSBN; how best to leverage existing infrastructure for use in the PSBN; what state and local actions should be eligible grant activities; and issues related to state funding and performance requirements.⁸

NTIA received approximately 70 comments from a wide range of stakeholders, including states, local and tribal governments, federal and state agencies, trade associations, private companies, consultants, and individuals. The majority of the comments discuss each of the issues identified in the RFI, and NTIA relied on the comments for guidance to frame the requirements of the State and Local Implementation Grant Program, particularly to develop the overarching direction of the program as it relates to the collection of data and the consultation process with FirstNet.

In some cases, the comments address matters not specifically covered in the RFI, such as the need for a web-based repository of information, the need for clarification on the applicability of vendor conflict of interest rules, the importance of developing the PSBN business models, and the necessary considerations for network sustainability.⁹ While these

⁷ Development of the State and Local Implementation Grant Program for the Nationwide Public Safety Broadband Network, Request for Information, 77 Fed. Reg. 28857 (May 16, 2012) (RFI). NTIA has posted all comments received in response to the RFI on its website at <http://www.ntia.doc.gov/federal-register-notice/2012/comments-development-state-and-local-implementation-grant-program>.

⁸ *Id.* at 28858-59.

⁹ See, e.g., State of New York at 2, 4, and 7, *available at* http://www.ntia.doc.gov/files/ntia/state_of_new_york_response_to_ntia_grant_rfi_june_15_2012.pdf; State of Texas at 9, 14, *available at* http://www.ntia.doc.gov/files/ntia/ntia_texas_rfi_v10.1_061512.pdf; Motorola Solutions, Inc. at 2, 7-8, *available at* http://www.ntia.doc.gov/files/ntia/final_ntia_rfi_comments.pdf; Operator Advisory Committee (OAC) at 10-11, 13-14, *available at* http://www.ntia.doc.gov/files/ntia/psst-oac_ntia_rfi_response_finalv3.pdf; Los Angeles Regional Interoperable Communications System Authority (LA-

comments raise important issues, many of these matters are within the purview of FirstNet and are better left for its consideration as it carries out its responsibilities under the Act. As a result, NTIA has not incorporated these concerns into the requirements for the State and Local Implementation Grant Program, but will pass the information along to FirstNet for its consideration.

A. Data Collection

Overwhelmingly, the commenters agree that FirstNet must establish a standardized process before the states engage in any data collection activities.¹⁰ The state commenters, in particular, point out that it would not be an efficient use of their resources to begin collecting data that might not be useful or necessary during their consultations with FirstNet.¹¹ Many commenters provide helpful input about the data the states should collect and how they could

RICS) at 4, available at http://www.ntia.doc.gov/files/ntia/ntia_rfi_laricscomments_final.pdf; Mid-Atlantic SWICs at 8-9, available at http://www.ntia.doc.gov/files/ntia/mid-atlantic_swics_comments_on_ntia_rfi_6-15-2012_final.pdf.

¹⁰ See Arizona Department of Homeland Security at 9, available at <http://www.ntia.doc.gov/files/ntia/azdohs.pdf>; Carlos Delatorre at 9, available at http://www.ntia.doc.gov/files/ntia/carlos_delatorre_comments.pdf; National States Geographic Information Council (NSGIC) at 4, available at http://www.ntia.doc.gov/files/ntia/nsgic_response_061412.pdf; Michael A. Scales, available at <http://www.ntia.doc.gov/federal-register-notice/2012/comments-development-state-and-local-implementation-grant-program?page=1#comment-29357>; National Governors Association at 2, available at http://www.ntia.doc.gov/files/ntia/letter_to_ntia_re_state_and_local_implementation_grant_final_signed.docx.pdf; National Association of State Chief Information Officers (NASCIO) at 3, available at http://www.ntia.doc.gov/files/ntia/nascio_response_to_ntia_psbm_grant_program_final.pdf; FEMA Region 5 Regional Emergency Communications Coordination Working Group (RECCWG) at 6-7, available at http://www.ntia.doc.gov/files/ntia/fema_region5_reccwg_ntia_rfi_responses_june_2012_ver7.pdf; Ventura at 4, available at http://www.ntia.doc.gov/files/ntia/ntia_public_comments_slipg.pdf; Commonwealth of Kentucky at 1, available at <http://www.ntia.doc.gov/files/ntia/kybroadbandrfi.pdf>; Rhode Island Broadband Program Director at 12, available at http://www.ntia.doc.gov/files/ntia/ntia_rfi_response_001.pdf; State of Utah at 5, available at http://www.ntia.doc.gov/files/ntia/state_of_utah_ntia_rfi_response_final_6-15-12.pdf; State of North Dakota at 5-6, available at http://www.ntia.doc.gov/files/ntia/north_dakota_firstnet_planning_rfi_response_120509050-1050-01.pdf; Raytheon at 2, available at http://www.ntia.doc.gov/files/ntia/raytheon_rfi_response_to_ntia_15-jun-12.pdf.

¹¹ See State of California at 5, available at http://www.ntia.doc.gov/files/ntia/california_state_response.pdf; State of South Dakota at 1, available at http://www.ntia.doc.gov/files/ntia/national_public_safety_broadband_public_comments.pdf.

best identify the assets and infrastructure that FirstNet might leverage for the PSBN.¹²

Recommended assets to identify and evaluate include existing radio tower sites, fiber and microwave links, and government-owned properties that might be suitable for new wireless infrastructure, such as building rooftops and water towers.¹³ Several commenters also recommend that FirstNet create a standard template, along with a standardized database, for the states to use to collect and submit information on asset inventories.¹⁴

B. The Consultation Process with FirstNet

Many commenters believe that preparing to consult effectively with FirstNet will require states to dedicate their already limited resources, specifically funds and personnel, to this task.¹⁵ The comments emphasize that effective consultations with FirstNet will require a significant amount of planning and preparation for all stakeholders that could span several months, if not years.¹⁶ The states, in particular, observe that without grant funds to hire staff,

¹² See State of South Dakota at 1; Arizona Department of Homeland Security at 4-5; Carlos Delatorre at 3; State of Oregon at 1, available at http://www.ntia.doc.gov/files/ntia/oregon_rfi_comments.pdf; NSGIC at 2; State of Georgia at 1-3, available at http://www.ntia.doc.gov/files/ntia/state_of_georgia_response_06-14-2012.pdf; LA-RICS at 3-5; Mid-Atlantic SWICs at 9; FEMA Region 5 RECCWG at 2, 12-13; OAC at 3-5; BayRICS at 3-4, available at http://www.ntia.doc.gov/files/ntia/bayrics_ntia_rfi_slpgp.pdf; Motorola Solutions at 3, 7-9; PCIA-The Wireless Infrastructure Association at 5-6, available at http://www.ntia.doc.gov/files/ntia/ntia_state_and_local_grant_program_rfi_pcia_comments_6-15-12_final.pdf; Alcatel-Lucent at 5-8, available at http://www.ntia.doc.gov/files/ntia/alu_comments_on_ntia_ps_rfi.pdf; Tilson Government Services, LLC at 4, available at <http://www.ntia.doc.gov/files/ntia/tilsonrficomments.pdf>; Raytheon at 6; Connected Nation at 4, available at http://www.ntia.doc.gov/files/ntia/cn_letter_on_firstnet_rfi_6_15_2012_final.pdf; Northrop Grumman Information Systems at 2-4, available at http://www.ntia.doc.gov/files/ntia/northrop_grumman_comments.pdf; North Central Regional Broadband Data Consortium at 2-4, available at http://www.ntia.doc.gov/files/ntia/ncrbdc_comments.pdf.

¹³ See Mid-Atlantic SWICs at 8; Arizona Department of Homeland Security at 4-5; NSGIC at 2.

¹⁴ See Mid-Atlantic SWICs at 8; State of Georgia at 5; State of New Jersey at 5, available at http://www.ntia.doc.gov/files/ntia/new_jersey_ntia_rfi_slipg_response_6_15_2012.pdf.

¹⁵ See State of Colorado Governor's Office of Information Technology at 2, available at http://www.ntia.doc.gov/files/ntia/colorado_office_of_information_technology_comments.pdf (stating that the collection of relevant data "will take significant effort in both human and capital resources").

¹⁶ See California Emergency Management Agency at 3, available at http://www.ntia.doc.gov/files/ntia/california_state_response.pdf.

conduct meetings with the various stakeholders, and develop the necessary governance structures, the states cannot consult with FirstNet in a meaningful way.¹⁷ Many commenters agree that state, local, and tribal jurisdictions lack the staff and/or technical ability to manage a project of this size without federal support.¹⁸

NTIA agrees that FirstNet is in the best position to develop standards for the collection of data on assets and infrastructure that might be used or incorporated into the PSBN.¹⁹ As a result, NTIA believes that it would not be a prudent use of grant funds to allow the states to undertake data gathering and collection activities, such as asset inventories, before FirstNet has developed guidance on the information it will need. Additionally, NTIA understands that coordination with FirstNet will involve a substantial amount of time and planning and many states face significant resource constraints, particularly with staffing levels, to participate effectively in this effort.²⁰

Based in large part on this feedback, and in keeping with the intent of the Act, NTIA

¹⁷ See State of Nevada at 3, *available at*

http://www.ntia.doc.gov/files/ntia/state_of_nevada_ntia_docket_no_120509050-1050-01.pdf (“Implementation and planning grants must be used to fund that data collection and assessment effort in addition to the other tasks required to establish the State’s network requirements.”); State of Mississippi at 3, *available at* http://www.ntia.doc.gov/files/ntia/state_of_ms_response_to_ntia_rfi_final_6_15_12.pdf (“Grant funding should also be used to provide the support for dedicated state staff and consultants to develop essential data for FirstNet as well as funding to support outreach and education efforts directly related to the PSBN.”).

¹⁸ See State of Georgia at 1 (“Very few, if any, States or locals have the staff and technical expertise to manage a project of this size, complexity and importance on a full time basis.”); State of New York at 2 (“Many states lack the state and local resources to collect this data.”); State of North Dakota at 1-2 (grant funds should be available for staffing requirements and planning activities).

¹⁹ See Commonwealth of Massachusetts at 4, *available at*

http://www.ntia.doc.gov/files/ntia/mass_eopss_final_june_14_2012-2.pdf; State of Oregon at 5-6; State of Georgia at 5; APCO International at 5, *available at* http://www.ntia.doc.gov/files/ntia/apco_comments_on_ntia_rfi.pdf; LA-RICS at 9; State of Montana at 3, *available at* http://www.ntia.doc.gov/files/ntia/montana_response_ntia_npsbn_rfi_061412.pdf; OAC at 10; State of Nevada at 2-3; State of Colorado Governor’s Office of Information Technology at 2.

²⁰ See South Dakota Bureau of Information & Telecommunications at 1, *available at* http://www.ntia.doc.gov/files/ntia/national_public_safety_broadband_public_comments.pdf.

believes that, given the funds available and the need for FirstNet to make initial decisions on the data collection process, it can make the most efficient and effective use of grant dollars by focusing the State and Local Implementation Grant Program on planning and development activities in preparation for consultations with FirstNet.²¹

III. Establishment of Programmatic Requirements for the State and Local Implementation Grant Program

A. Funding Distribution

Consistent with the statutory framework, NTIA plans to design the State and Local Implementation Grant Program as a formula-based, matching grant program to assist states, in collaboration with regional, tribal, and local jurisdictions, with activities related to planning for the establishment of a nationwide public safety broadband network.²² NTIA is not announcing procedures for the submission of grant applications in this Notice nor is it accepting applications at this time. NTIA intends to release a Federal Funding Opportunity (FFO) notice that will provide information on topics including: the amount of funding available for award and how NTIA will allocate funds to applicants, instructions on the application process, and the evaluation criteria for application review. Subject to activities of FirstNet, NTIA expects to issue a FFO and open the application window during the first quarter of calendar year 2013. This time frame will allow NTIA to complete the administrative functions it must undertake to prepare to award grants under this program.

NTIA plans to distribute the funding available under this grant program in two phases, and will consider the input solicited through the RFI to develop a methodology to

²¹ See 47 U.S.C. 1442(a).

²² See *id.*

distribute the available funds.²³ The commenters suggest numerous factors as relevant to allocating these funds, including: population;²⁴ population density;²⁵ land mass;²⁶ geography and topography;²⁷ risk, threat, and vulnerability;²⁸ probability of disaster;²⁹ expected level of effort required for completion;³⁰ existing critical infrastructure;³¹ number of highway miles;³² demand and marketing components;³³ number of regional/local/tribal governmental entities using the network;³⁴ number of first responders using the network;³⁵ effective signal propagation;³⁶ amount of uncovered rural broadband customers;³⁷ prioritization of rural

²³ See RFI, 77 Fed. Reg. at 28859.

²⁴ See State of Georgia at 12; LA-RICS at 20; State of New York at 10.

²⁵ See Commonwealth of Massachusetts at 12; USDA-Rural Utilities Service (USDA-RUS), *available at* <http://www.ntia.doc.gov/federal-register-notice/2012/comments-development-state-and-local-implementation-grant-program#comment-29426>.

²⁶ See State of South Dakota at 5.

²⁷ See State of Oregon at 16; State of Montana at 8; State of Maine at 3, *available at* <http://www.ntia.doc.gov/files/ntia/firstnetresponse.pdf>; Florida at 18, *available at* http://www.ntia.doc.gov/files/ntia/florida_response_to_ntia_rfi_state_and_local_implementation_grant.pdf; Tilson Government Services, LLC at 11.

²⁸ See Arizona Department of Homeland Security at 15; State of Georgia at 12; BayRICS at 12-13.

²⁹ See State of Texas at 13.

³⁰ See Carlos Delatorre at 18-19; Florida at 18; State of North Dakota at 13; Washington State Interoperability Executive Committee at 4, *available at* http://www.ntia.doc.gov/files/ntia/wa_siec_response_to_ntia_rfi_06152012.pdf.

³¹ See State of Georgia at 12; State of Maine at 3; FEMA Region 5 RECCWG at 15; North Central Regional Broadband Data Consortium at 13-14.

³² See State of Nevada at 6-7; State of Utah at 14; State of Mississippi at 20.

³³ See APCO International at 7.

³⁴ See Mid-Atlantic SWICs at 11; Florida at 18; OAC at 22.

³⁵ See FEMA Region 5 RECCWG at 15; OAC at 22.

³⁶ See State of Maine at 3.

³⁷ See State of Nevada at 7; State of Mississippi at 20.

areas;³⁸ areas with backhaul deficiencies;³⁹ length of international borders;⁴⁰ and amount of tribal lands.⁴¹ Additionally, some commenters propose that NTIA provide each state with an initial, equal distribution of funds to enable the states to accomplish certain planning tasks.⁴² NTIA will take this input into account and consider those factors that can be quantified in developing the formula it will use to allocate the available grant funds among eligible applicants. NTIA will announce this formula when it issues the FFO.

B. Eligible Applicants

The 56 states and territories are eligible for grants under the State and Local Implementation Grant Program. The Act directs NTIA to make grants to states; thus, each state and territory choosing to apply for a grant should submit an individual application during the application window. An applicant may decide, however, to collaborate or coordinate with other states and regions in preparing application submissions, as is contemplated in the statute.⁴³

NTIA will specify in the FFO the exact contents of the application package that applicants must submit during the application window. There are several items, however, that NTIA will likely require, and applicants may prepare to address them in advance of the FFO's publication. First, the Act directs each state to certify in its application for grant funds

³⁸ See Mendocino County, California at 3, *available at* <http://www.ntia.doc.gov/files/ntia/mendocinocommentsonntiafirstnetrfi.pdf>.

³⁹ See State of Utah at 14.

⁴⁰ See State of Texas at 14; State of North Dakota at 13; Washington State Interoperability Executive Committee at 3.

⁴¹ See State of North Dakota at 13.

⁴² See, e.g., Commonwealth of Massachusetts at 2, 4 (proposing that NTIA give each state \$500,000 to establish and operate a Public Safety Broadband office).

⁴³ 47 U.S.C. 1442(a).

that the state has designated a single officer or governmental body to serve as the coordinator of the grant funds.⁴⁴ This designated officer or governmental body will also be responsible for determining the method of consultation between FirstNet and the state.⁴⁵ Multiple commenters urge NTIA to give the states flexibility in making this decision.⁴⁶ Commenters point out that states are best equipped to identify the most appropriate office or governmental body suited to this task, which may vary from state to state, as well as the personnel qualified to act in this capacity.⁴⁷ Accordingly, NTIA will give states flexibility in determining which state officer or governmental body to designate as the coordinator of the grant funds.

Second, in response to concerns expressed by some commenters and consistent with the intent of the statute, NTIA will likely ask applicants to describe how they plan to collect input from local and tribal jurisdictions to ensure that their public safety needs are adequately represented during the consultation process with FirstNet and in the coordination of the grant funds.⁴⁸

⁴⁴ 47 U.S.C. 1442(d).

⁴⁵ 47 U.S.C. 1426(c)(2)(B).

⁴⁶ See State of Oregon at 2; State of California at 3; Nebraska at 2, *available at* http://www.ntia.doc.gov/files/ntia/1399_001.pdf; Florida at 4.

⁴⁷ See Minnesota at 4, *available at* http://www.ntia.doc.gov/files/ntia/ecn_ntia_rfi_grant_filing_06_15_2012_d4_final.pdf; State of New York at 3; State of Hawaii at 5-6, *available at* http://www.ntia.doc.gov/files/ntia/state_of_hawaii_slip_rfi_response.pdf; State of Georgia at 3; State of Texas at 2-3.

⁴⁸ See 47 U.S.C. 1442(a); *see also* National Congress of American Indians at 2-3, *available at* http://www.ntia.doc.gov/files/ntia/ncai_comments_on_slip_06152012f.pdf (NTIA and FirstNet must “institute rules and reporting requirements to ensure that tribal governments are included in the planning and implementation process”); NASCIO at 2-3 (“The State and Local Implementation grant program should encourage states to leverage all pre-existing relationships to ensure coordination and input into the planning process.”); State of Alaska at 1, *available at* http://www.ntia.doc.gov/files/ntia/state_of_alaska_response_to_ntia_rfi.pdf (“Any mechanisms that mandate involvement of federal, local, and tribal users would not be unreasonable to the degree that involvement levels could be determined by the states.”); New Mexico Department of Information Technology at 3, *available at* http://www.ntia.doc.gov/files/ntia/rfi_response_final_15jun12.pdf (suggesting each state “provide a plan for ensuring inclusion of local and tribal entities via aggregate structure”); LA-RICS at 6 (“NTIA should allow each State to determine the best method for undertaking [involving tribal entities] and include a description and plan

Third, NTIA requested comment on how the existing public safety governance and planning authorities in each state might be incorporated into the consultations with FirstNet about the PSBN.⁴⁹ While each state may be at different stages in their development of their public safety governance structures, the commenters generally agree that the states should use established governing bodies in the PSBN consultations.⁵⁰ Because the governance structures tend to vary from state to state, NTIA will likely ask the states to discuss how they will leverage their existing governance structures in the PSBN consultations. Finally, because these public safety governance structures have traditionally focused solely on interoperable Land Mobile Radio (LMR) voice communications, NTIA anticipates asking applicants to describe how they intend to expand the expertise of their governance structures to include representatives with an understanding of broadband and Long Term Evolution (LTE) technology to facilitate their consultations with FirstNet.

C. Allowable Grant Activities

The State and Local Implementation Grant Program will support activities related to planning for the establishment of the nationwide PSBN. NTIA received detailed input from

in its grant application.”); Commonwealth of Massachusetts at 2-3 (saying that it should be a stipulation for funding that “the responsible state governing body ensures that local and tribal (if applicable) participation in the planning process is present”); APCO International at 1 (“[S]tates must place the highest priority on establishing or enhancing governance structures that ensure adequate representation of local jurisdictions in their respective [S]tates.”).

⁴⁹ RFI, 77 Fed. Reg. at 28858-59.

⁵⁰ See State of Montana at 3-4 (“[T]o facilitate the planning and deployment [of the PSBN,] an already established governing body and governance structure in each individual [S]tate should be utilized.”); FEMA Region 5 RECCWG at 3 (“[T]here is no need to establish a *new* governance structure, even though there is now a new technology to govern,” since the governance structures in place or being developed should already include representatives of multiple disciplines as well as local and tribal responders.); Florida at 7-8 (finding that even though the underlying technology is changing, the mission of the Interoperability Governing Bodies (IGBs) remains, and therefore, “existing IGBs should continue to have principle [*sic*] responsibility for interoperability within the NPSBN”); Minnesota at 8 (“[E]xisting IGBs should continue to have principle [*sic*] responsibility for interoperability within the NPSBN.”); New Mexico Department of Information Technology at 5-6 (stating that the current governance structures can and should be considered for use with the PSBN); Montgomery County, Maryland at 6, available at <http://www.ntia.doc.gov/files/ntia/comments-montgomerycountymd.pdf> (emphasizing that existing public safety governance and planning authorities’ voices must be heard in the program).

the majority of commenters regarding the types of activities that it should allow under the grant program to accomplish this objective.⁵¹ Some of the activities that commenters identify include ensuring that states have an appropriate framework in place to consult with FirstNet,⁵² developing and managing personnel/administrative positions,⁵³ conducting meetings,⁵⁴ arranging travel,⁵⁵ and providing public outreach and education as well as internal training.⁵⁶ Commenters further note that some states may need to work with their legal teams to evaluate any potential local legal barriers, negotiate necessary agreements, and develop standard Memoranda of Understanding (MOUs) to govern access to assets and infrastructure that may be used in the PSBN.⁵⁷

NTIA anticipates structuring the State and Local Implementation Grant Program into

⁵¹ See RFI, 77 Fed. Reg. at 28859.

⁵² Section 6206(c)(2)(A) of the Act directs FirstNet to consult with regional, state, tribal, and local jurisdictions about the distribution and expenditure of any amounts required to carry out the network policies that it is charged with establishing, including (i) construction of a core network and any radio access network build-out; (ii) placement of towers; (iii) coverage areas of the network, whether at the regional, state, tribal, or local level; (iv) adequacy of hardware, security, reliability, and resiliency requirements; (v) assignment of priority to local users; (vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network; and (vii) training needs of local users. 47 U.S.C. 1426(c)(2)(A).

⁵³ See State of South Dakota at 4; Arizona Department of Homeland Security at 13; State of Oregon at 12; State of California at 8; APCO International at 6; LA-RICS at 17; Anjee Toothaker at 2, *available at* http://www.ntia.doc.gov/files/ntia/june_15_2012_ltr_to_natl_telecomm_and_info_admin.pdf; FEMA Region 5 RECCWG at 12; Florida at 14; State of North Carolina at 5, *available at* http://www.ntia.doc.gov/files/ntia/ntia_rfi_comments_by_north_carolina.pdf; Dr. Michael Myers at 14, *available at* http://www.ntia.doc.gov/files/ntia/meyers_rfi_response.pdf.

⁵⁴ See LA-RICS at 17; Mid-Atlantic SWICs at 10-11; State of Montana at 6; Commonwealth of Kentucky at 2; State of New York at 7; Cheyenne River Sioux Tribe 911 at 3, *available at* http://www.ntia.doc.gov/files/ntia/ntia_rfi_comments_from_crst_911_corp_v2.pdf; State of Texas at 11.

⁵⁵ See Carlos Delatorre at 15; Michael A. Scales; State of Utah at 11; State of Mississippi at 16; National Congress of American Indians at 6.

⁵⁶ See State of Oregon at 12; State of California at 8; Commonwealth of Massachusetts at 9; State of Georgia at 9; Florida at 15.

⁵⁷ See NACo, NLC, USCM & NATOA at 3, *available at* http://www.ntia.doc.gov/files/ntia/response_to_rfi_on_grant_structure_final.pdf; State of South Dakota at 3; State of California at 1-2; LA-RICS at 5; State of New Jersey at 4; State of Nevada at 4; State of Texas at 12.

two phases of funding for planning activities. The first phase will focus on initial planning and consultation activities, including strategy and timeline development, meetings, governance planning, and outreach and education efforts. The second phase will not begin until FirstNet has consulted with the state-designated contact about the matters listed in the Act, including defining coverage needs, user requirements, and network hardening and resiliency requirements.⁵⁸ The second funding phase will address states' needs in preparing for additional consultation with FirstNet and planning to undertake data collection activities.

NTIA will detail the full scope of allowable activities under the grant program in the FFO; however, NTIA will likely require recipients to show that they have accomplished the following activities by the end of the grant period of performance: (1) established a governance structure, or expanded existing structures, to consult with FirstNet; (2) developed procedures to ensure local and tribal representation and participation in the consultation process with FirstNet; (3) created a process for education and outreach, through program development or through other efforts, among local and tribal officials, public safety users, and other stakeholders about the nationwide public safety broadband network; (4) identified potential public safety users of the public safety broadband network; (5) developed standard MOUs to facilitate the use of existing infrastructure, or identified the legal barriers to creating standard MOUs and described potential remedies; and (6) developed staffing plans that include local and tribal representation to participate in the public safety governance structure and to prepare for data collection activities in consultation with FirstNet. NTIA also will consider having grant recipients prepare a comprehensive plan, similar in concept to their existing Statewide Interoperability Communications Plans (SICPs), describing the

⁵⁸ 47 U.S.C. 1426(c)(2)(A).

public safety needs that they expect FirstNet to address in its design of the nationwide PSBN, as well as how they intend to satisfy each of the elements enumerated above, including milestones that demonstrate their progress.

If sufficient funds are available, NTIA may permit grant recipients that have satisfactorily completed the milestones associated with these initial planning requirements to use funds for supplemental activities related to preparing for any FirstNet data collections, such as determining staffing levels to dedicate to these tasks, designating a state point of contact for data collection, where appropriate, and evaluating the feasibility of using public/private partnerships. At present, NTIA does not expect to include the compiling of asset and infrastructure inventories as an allowable activity until FirstNet has developed a standardized process to govern data collection activities.

D. Funding Restrictions - Eligible and Ineligible Costs

Grantees may only use funds awarded under the State and Local Implementation Grant Program to pay eligible costs. Eligible costs are consistent with the cost principles identified in the applicable Office of Management and Budget (OMB) circulars⁵⁹ and in the grant program's authorizing legislation.

Based on input received from multiple commenters, eligible costs under the planning grant program will likely include the following categories of expenses:

1. Hiring staff and consultants required for the planning process (such as project managers, program directors, engineers, grant administrators, financial analysts, accountants,

⁵⁹ Allowable costs are determined in accordance with the cost principles applicable to the entity incurring the costs. For example, the allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," 2 C.F.R. Part 225.

and attorneys);

2. Holding planning meetings with state agencies, local and tribal stakeholders, and regional partners;

3. Covering travel costs for state, local, and tribal representatives to attend planning meetings (such as preparing for FirstNet consultations and attending state, regional, and national meetings that address public safety broadband issues);

4. Developing, modifying, or enhancing state plans and governance structures, including efforts to adapt existing public safety governance authorities, such as the Statewide Interoperability Coordinators (SWIC), Statewide Interoperability Executive Committees (SIEC), and Statewide Interoperability Governing Bodies (SIGB), to include public safety broadband stakeholders and expertise, and determining the role of the state Chief Information Officers (CIO), Chief Technology Officers (CTO), or Chief Budget Officers (CBO);

5. Conducting communications, education, and outreach activities with state, local, tribal, and regional stakeholders;

6. Developing standardized MOUs and other types of agreements to facilitate access to and use of existing infrastructure;

7. Identifying potential public safety users for the public safety broadband network;

8. Administrative services and supplies necessary to prepare for and manage the grant program;

9. Legal services related to the planning process; and

10. Training costs related to the planning process.

NTIA does not envision allowing funds awarded under the State and Local Implementation Grant Program to be used for activities related to site preparation, broadband deployment, installation, construction, or the acquisition of equipment used to provide wireless broadband services, including LTE-related activities.

E. Rural Coverage Prioritization

The Act provides that the State and Local Implementation Grant Program shall include requirements to prioritize grants for activities that ensure coverage in rural as well as urban areas.⁶⁰ Some commenters note that states with a higher percentage of rural areas may face unique challenges; thus, designing a one-size-fits-all approach to ensuring rural coverage may not be appropriate for all circumstances.⁶¹

In designing the formula that it will use to allocate funds under the grant program, NTIA intends to avoid a solely population-based approach and will consider additional factors that affect rural coverage. Additionally, NTIA agrees that the states will need flexibility in determining the most effective means by which FirstNet can provide adequate rural coverage. While the FFO will describe in detail the exact contents of the application package, NTIA anticipates having the states address how they will prioritize their grant activities to ensure coverage in rural areas, including providing specific plans and metrics to demonstrate how they will achieve these requirements.⁶²

F. NTIA Consultations with FirstNet on the State and Local Implementation Grant Program Requirements

⁶⁰ 47 U.S.C. 1442(c).

⁶¹ See State of South Dakota at 4; State of Georgia at 10; Arizona Department of Homeland Security at 13-14.

⁶² See State of Mississippi at 17; OAC at 20-21.

As previously discussed, the Act directs NTIA to consult with FirstNet to establish the requirements of the State and Local Implementation Grant Program not later than 6 months after the date of the Act's enactment, or by August 22, 2012. The Act also required that FirstNet be established no later than August 20, 2012. The Act's framework, which essentially placed the creation of FirstNet and the development of the grant program requirements on parallel tracks, proved challenging for NTIA as it attempted to fulfill the statutory mandate to consult with FirstNet in establishing the State and Local Implementation Grant Program. As noted, NTIA has only started to consult with the newly-formed FirstNet Board on the grant program requirements outlined in this Notice. NTIA expects these consultations to proceed over the next few months as NTIA continues to prepare the FFO in which the State and Local Implementation Grant Program requirements will be described more fully.

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